

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DEBRA MCCARTHY,	:	No. 3:21cv1759
DEVIN MCARTHY, and	:	
OLUWATOMISIN OLASIMBO,	:	(Judge Munley)
	:	
Plaintiffs	:	(Magistrate Judge Carlson)
	:	
v.	:	
	:	
RAUL JAUREGUI and	:	
DANIEL BOYE,	:	
	:	
Defendants	:	

27 ORDER

AND NOW, to wit, this 27 day of March 2024, it is hereby ORDERED
as follows:

- 1) Magistrate Judge Martin C. Carlson's report and recommendation ("R&R") (Doc. 43) is **ADOPTED** in part -
 - A) The R&R is **ADOPTED** regarding the jurisdictional issue raised as a part of Defendant Daniel Boye's motion to dismiss (Doc. 15) and that portion of the motion is **DENIED**;
 - B) The R&R is **ADOPTED** with regard to the portion of Defendant Daniel Boye's motion to dismiss Count 1 of the complaint and that portion of the motion to dismiss is **DENIED**;

C) The R&R is also **ADOPTED** with regard to the motions to dismiss Count 6 of the complaint, and those portions of the motions to dismiss are **GRANTED**. Count 6 is **DISMISSED**;

D) The R&R is **ADOPTED** with regard to the portion of Defendant Jauregui's motion to dismiss (Doc. 13) aimed at the intentional infliction of emotional distress claim found in Count 5 and that portion of the motion is **DENIED**;

E) The R&R is **ADOPTED** with regard to Defendant Daniel Boye's motion for sanctions (Doc. 16) and this motion is **DENIED**;

2) The R&R is **NOT ADOPTED** with regard to the motions to dismiss Counts 2, 3, and 4 of the amended complaint and the portions of the motions to dismiss (Doc. 13, Doc. 15) dealing with these counts are **GRANTED**. Counts 2, 3, and 4 are **DISMISSED**;

3) Remaining in this case are Count 1 – Plaintiff Devin McCarthy versus Daniel Boye for battery and Count 5 – Plaintiff Devin McCarthy versus both defendants for intentional infliction of emotional distress. Accordingly, Plaintiffs Debra McCarthy and Oluwatomisin Olasimbo are completely dismissed from this case; and

4) The Clerk of Court is directed to remand this case to Magistrate Judge Carlson for further pretrial management.

BY THE COURT:

JUDGE JULIA K. MUNLEY
United States District Court